

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

WARDLAW TRANSPORTATION, LLC
AND HECTOR VELIS,

Plaintiffs,

VS.

SOUTHERN TIRE MART, LLC,
BRIDGESTONE AMERICAS, INC., AND
BRIDGESTONE AMERICAS TIRE
OPERATIONS, LLC,

Defendants.

CIVIL ACTION NO. 5:20-CV-01014

**DEFENDANT BRIDGESTONE AMERICAS TIRE OPERATIONS, LLC'S
NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

COMES NOW Bridgestone Americas Tire Operations, LLC (hereinafter referred to as “BATO”), one of the Defendants in the above-entitled and numbered cause styled “Wardlaw Transportation, LLC and Hector Velis vs. Southern Tire Mart, LLC, Bridgestone Americas, Inc., and Bridgestone Americas Tire Operations, LLC,” originally pending as Cause No. 2020CI12879 in the 408th District Court of Bexar County Texas” and, pursuant to the terms and provisions of 28 U.S.C. §§ 1441 and 1446, hereby files this Notice of Removal of the cause to the United States District Court for the Western District of Texas, San Antonio Division.

I.

This Notice of Removal is filed on the basis of diversity of citizenship. Plaintiffs Wardlaw Transportation, LLC and Hector Velis filed their Original Petition in the 408th District Court of Bexar County, Texas on July 15, 2020. Plaintiff Wardlaw Transportation, LLC is a Texas limited liability company authorized to do business in the State of Texas. Plaintiff Hector

Velis is an individual residing in Texas, but the claim asserted herein is in subrogation, asserted by and through Federated Mutual Insurance Company for benefits paid to and/or on behalf of Plaintiff Velis.

II.

Defendant Bridgestone Americas Tire Operations, LLC was at all times and is now a citizen of a state other than the State of Texas. BATO, at the time of the initial filing of this action and ever since, is a limited liability company organized under the laws of the State of Delaware, having its principal place of business in Nashville, Tennessee. Bridgestone Americas, Inc. ("BSAM") is the sole member of BATO. BSAM is a corporation duly incorporated and organized under the laws of the State of Nevada, having its principal place of business in Nashville, Tennessee.

III.

Defendant Southern Tire Mart, LLC was at all times and is now a citizen of a state other than the State of Texas. Southern Tire Mart, LLC, at the time of the initial filing of this action and ever since, is a limited liability company organized under the laws of the State of Mississippi. Southern Tire Mart, LLC is wholly owned by two members, each a revocable grantor trust with trustees that reside in the State of Mississippi.

IV.

This removal is timely because it is filed "within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable." 28 U.S.C. § 1446(b). Plaintiffs' Original Petition was served on BATO on July 30, 2020. Accordingly, this removal is timely because it is made within thirty (30) days after the receipt by BATO of the pleading which first demonstrated the case was removable. Further,

more than one year has not passed since the commencement of the action in state court. 28 U.S.C. § 1446(b).

V.

There is complete diversity of citizenship between Plaintiffs and Defendants in this matter, and there is no defendant that is a citizen of the State in which the action was brought. Therefore, the present suit is thus an action over which the United States District Court for the Western District of Texas, San Antonio Division, has jurisdiction because of diversity of citizenship.

VI.

Plaintiffs' action is one of a civil nature based upon negligence claims for which Plaintiffs seek to recover damages in excess of \$75,000 for which Plaintiffs allege Defendants are liable. The present suit is an action over which the United States District Court for the Western District of Texas, San Antonio Division, has jurisdiction because of diversity of citizenship.

VII.

The amount in controversy in this action, as indicated by the award sought in Plaintiffs' Original Petition and based on the nature of the alleged crash in question, appears to exceed \$75,000, exclusive of interest and costs. Plaintiffs affirmatively plead they seek monetary relief over \$200,000 but not more than \$1,000,000. Plaintiffs' action is one of a civil nature based upon claims of strict liability and negligence. Plaintiffs, in their Original Petition, seek to recover past and future actual damages (medical expenses, loss of earning capacity, repair and replacement expenses, loss of use, loss of business income "and other associated and resulting damages"), pre-judgment and post-judgment interest at the legal rate, and cost of court and expenses for which Plaintiffs allege Defendants are liable.

VIII.

Counsel for BATO has conferred with counsel for Southern Tire Mart, LLC and Bridgestone Americas, Inc. regarding this Notice of Removal and confirmed that Southern Tire Mart, LLC and Bridgestone Americas, Inc. consent to this removal. Southern Tire Mart, LLC and Bridgestone Americas, Inc. will be separately filing their Consent to BATO's Notice of Removal.

IX.

Defendant BATO would show that it has filed with the Clerk of the 408th District Court of Bexar County, Texas, a true copy of this Notice of Removal simultaneously with the filing hereof in this Court.

X.

Copies of all process, pleadings and orders, as well as the docket sheet and index of all pleadings relating to this case and previously filed with the 408th District Court of Bexar County, Texas are attached hereto as Exhibit "A" for the Court's reference.

WHEREFORE, PREMISES CONSIDERED, Defendant Bridgestone Americas Tire Operations, LLC respectfully prays that this case be removed to the United States District Court for the Western District of Texas, San Antonio Division.

Respectfully submitted,

/s/ Scott G. Edwards

SCOTT G. EDWARDS

State Bar No. 06461480

e-mail: sedwards@hartlinebarger.com

COLIN L. POWELL

State Bar No. 24092984

e-mail: cpowell@hartlinebarger.com

HARTLINE BARGER LLP

8750 North Central Expressway, Suite 1600

Dallas, Texas 75231

(214) 369-2100 (Main)

(214) 346-3729 (Edwards Direct Dial)

(214) 267-4229 (Edwards Direct Fax)

(214) 346-3790 (Powell Direct Dial)

(214) 267-4290 (Powell Direct Fax)

(214) 369-2118 (Main Fax)

ATTORNEYS FOR DEFENDANT

BRIDGESTONE AMERICAS

TIRE OPERATIONS, LLC

CERTIFICATE OF SERVICE

On August 28, 2020, I electronically submitted the foregoing document with the clerk of court for the U.S. District Court, Western District of Texas, using the electronic case filing system of the court. I hereby certify that I have served all counsel of record electronically or by another manner authorized by Federal Rule of Civil Procedure 5(b)(2).

/s/ Scott G. Edwards